IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.628 OF 2004

The State of Maharashtra ...Appellant.

V/s

1. Ramdas Shripati Shireke
and Ors. ...Respondents.

Mr. A.S. Shitole for the appellant.

Mr. V.A. Sudgar for the respondent Nos. 1 to 4.

CORAM: V.M.KANADE,J.
DATE: 21st March, 2005

P.C.:

1. Heard the learned APP for the State and the learned counsel for the respondent Nos. 1 to 4.

2. This appeal has been preferred by the State, seeking enhancement of the sentence imposed by the Judicial Magistrate, First Class, Medha, District Satara. A complaint was filed under section 324 read with section 34 of the Indian Penal Code against the respondents. The Trial Court, after perusing the evidence on record, found that the accused are guilty of the offence punishable under section 324 read with section 34 of the Indian Penal Code. The Trial Court, however, gave benefit of Probation of Offenders Act to the accused and released them on execution of a bond of good behaviour for a period of one year and also

directed each accused to pay a sum of Rs 500/- as compensation to the injured persons as per the provisions of section 5 of the said Act. Against this order, the State has preferred this appeal.

3. The learned APP for the state has taken me through the Judgment and Order of the Trial court as also record and proceedings. He has submitted that the Trial Court has clearly erred in awarding compensation @ Rs 500/- only after having held that the accused had committed the said offence. He further submitted that the Trial Court ought not to have exercised its discretion under the provisions of the Probation of Offenders Act and should have sentenced the accused to suffer rigorous imprisonment.

4. I am unable to accept the submissions made by the learned APP for the State. I have perused the record and the depositions of the witnesses. It can be seen that, admittedly, there were civil disputes pending between the parties. The incident in question, even according to the prosecution, started because of the abuses given by Ramdas to Raghunath. The medical evidence shows that there were only two simple injuries found on the person of the complainant. The medical evidence, therefore, does not entirely support

the prosecution case. The defence as suggested in the cross-examination is that they had acted in self defence. Considering all these facts, I am of the view that the Trial Court has exercised its discretion under section 4 of the Probation of Offenders Act and accordingly directed the accused to pay compensation @ Rs 500/-. The reasons given by the Trial Court for exercising its discretion under section 4 of the said Act are cogent reasons. The Trial Court has observed that the accused Ramdas is a Government Servant and has completed 27 years of service and that the incident took place during the heat of passion and if he is sentenced to undergo rigorous imprisonment, it would affect his career as a public servant. In view of this, I do not see any reason to interfere with the order passed by the Trial Court. Leave is accordingly refused. Appeal is dismissed.

V.M. KANADE, J.